

ARTICLE APPEARED
ON PAGE A-1

NEW YORK TIMES
5 DECEMBER 1981

Ex-Green Beret Is Convicted Of Assault on Libyan Student

By WILLIAM E. SCHMIDT

Special to The New York Times

FORT COLLINS, Colo. Dec. 4 — A former Green Beret who contended he was on assignment for the Central Intelligence Agency when he shot a Libyan student here last year was convicted today of two misdemeanor assault charges but acquitted of attempted murder.

The case against the defendant, Eugene Aloys Tafoya, had assumed international dimensions, when the police and prosecutors theorized that he had been paid by the Libyan Government to assassinate Faisal Zagallai, a student at Colorado State University who was a persistent critic of the Libyan government.

One juror, Gene Webb, 31, said the county court jury believed Mr. Tafoya was working for the Libyans. They dismissed testimony from Mr. Tafoya that he was working for the C.I.A. at the time he shot Mr. Zagallai, or that Mr. Tafoya had acted in self-defense.

Immediately after the verdict, Judge J. Robert Miller of the Larimer County District Court set Jan. 5 for sentencing and reduced Mr. Tafoya's bond from \$500,000 to \$5,000.

Two hours after the verdict, a stony-faced Mr. Tafoya was freed from the Larimer County jail, where he had been held the past seven months. The usually garrulous Mr. Tafoya said little to reporters but when asked if he were happy with the verdict, he replied, "It could have been worse."

At most, Mr. Tafoya, who is 48 years old, faces up to 24 months in jail on the assault charges. If he had been convicted of the three more serious charges, attempted first-degree murder, conspiracy to commit first-degree murder and attempted second-degree murder, he could have faced up to 24 years in prison.

Mr. Zagallai, 36 years old, was shot twice in the head by a .22-caliber pistol wielded by Mr. Tafoya. He survived the wounds but lost the vision in his right eye.

The verdict brought praise from defense attorneys and an angry reaction from Mr. Zagallai, who was in the court-

room when Judge Miller read the jury's decision. "I'm terribly shocked," he said. "This is supposed to be a system that fights terrorism. This encourages terrorism."

The jurors, who deliberated almost 17 hours before reaching a decision near noon today, said afterward that they believed Mr. Tafoya had wanted to "rough up" Mr. Zagallai, but had not intended to kill him.

Jury Dismisses C.I.A. Defense

In their decision, they convicted Mr. Tafoya of both third-degree assault and conspiracy to commit third-degree assault, indicating they believed that when Mr. Tafoya, posing as a job interviewer, visited Mr. Zagallai at his apartment here last year, he was acting on someone else's behalf.

"Obviously we felt there was another party," said Gary Thornberg, 37, the foreman of the jury. "But it didn't matter for our purposes who that was."

Defense attorneys said Mr. Tafoya had mixed feelings about the jury's decisions. "He still feels he was sold out by his own government," said Chris Miranda, a defense aide, referring to Mr. Tafoya's claim he thought he was working for the C.I.A. when he went to see Mr. Zagallai.

Walter Gerash, the Denver lawyer defending Mr. Tafoya, described him during closing arguments earlier this week as a "forgotten patriot, a soldier left out in the cold" who believed he was acting on C.I.A. orders.

Prosecutors alleged that Mr. Tafoya

was a professional hit man who bungled an attempt to kill Mr. Zagallai.

Federal officials earlier warned Mr. Zagallai that he might be the target of an assassination attempt because of his outspoken criticism of Muammar el-Qaddafi, who rules Libya.

Testifying on his own behalf, Mr. Tafoya said he shot Mr. Zagallai in self-defense in a struggle over a gun that Mr. Tafoya said the student pulled on him.

Mr. Tafoya said when he visited Mr. Zagallai in October 1980, posing as a job interviewer, he believed he was on a secret C.I.A. assignment. He said an agency contact identified only as John told Mr. Tafoya to "rough up" the Libyan student to get him to stop making what were described as "broadcasts" injurious to Israeli-Egyptian détente.

No evidence was introduced at the trial as to who it was who allegedly hired Mr. Tafoya to kill Mr. Zagallai.

Reported Tie to Edwin Wilson

However, prosecutors said that Mr. Tafoya was hired by a former C.I.A. agent named Edwin P. Wilson, who was acting on behalf of the Libyan government. Mr. Wilson is believed to be living in Libya as a fugitive from a Federal grand jury indictment that accuses him of smuggling explosives to Libya as part of a plot to train terrorists.

Prosecutors said Mr. Tafoya fled the United States after the shooting of Mr. Zagallai and visited both London and Libya.

In England, Mr. Tafoya was identified by neighbors as a visitor at a country estate owned by Mr. Wilson.